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THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY DM DEPUTY

RICKY R. FRANKLIN)
) Civil Action No: 1:18-CV-236-LY
)
Plaintiff,)
)
v.)
)
UPLAND SOFTWARE, INC.,)
)
Defendant)

PLAINTIFF'S BRIEF AND MEMORANDUM OF LAW IN
SUPPORT OF HIS MOTION FOR SUMMARY JUDGMENT

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I. RELEVANT BACKGROUND

On August 08, 2017 Plaintiff began received unsolicited telemarketing messages from the Defendant. Plaintiff received the messages up until March 03, 2018 in excess of twenty-five times. On March 19th 2018, Plaintiff filed his complaint (Dkt #1) for violations of TCPA 47 U.S.C. section 227 et seq. and O.C.G.A. 46-5-27(i). More than thirty days after the Defendants answer was due, On May 21, 2018, Plaintiff received through mail the Defendants answer and counter claim.

II. INTRODUCTION

NOW COMES Plaintiff, Ricky R. Franklin, Pro Se, respectfully move this Court for an Order granting summary judgment and related with respect to Count I and Count II of the Complaint in this matter for the reasons stated in the attached supporting Brief. This case is suitable for a decision, and Plaintiff submits this Memorandum of Law in Support of its Motion for Summary Judgment.

Defendant, UPLAND SOFTWARE, INC., (hereinafter, USI) violated the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 et seq and O.G.C.G.A 46-5-27(i) texting the Plaintiff on his cellphone. Further, Defendant USI texted the Plaintiff using a automated system at least twenty-five (25) times in violation of both statutes. (Appendix E, Documented Calls)

As explained below, summary judgment should be granted in favor of Plaintiff

III. THE TELEPHONE CONSUMER PROTECTION ACT OF 1991 (TCPA) 47 U.S.C §227 ET SEQ

The TCPA regulates, inter alia, the use of automated telephone equipment, or “predictive-dialers”, defined as equipment which “has the capacity... (a) to store or produce telephone numbers to be called, using a random or sequential number generator; and (b) to dial such numbers. 47 U.S.C. § 227(a)(1). Specifically, the plain language of section 227(b)(1)(A)(iii) prohibits the use of auto-dialers to make any call to a wireless number in the absence of an emergency or the prior express consent of the called party. The TCPA is a strict liability statute that awards \$500 per each violation and up to \$1,500 per willful/knowing violation. 47 U.S.C. § 227(b)(3)(B)(C).

The three elements of a Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227, claim are (1) the defendant called a cellular telephone number, (2) using an automatic telephone dialing system, (3) without the recipient’s prior express consent. 47 U.S.C. § 227(b)(1). The Defendants in this case cannot point to any relevant facts of the record, which would dispute Plaintiffs Statement Of Undisputed Material Facts or any element that dispute TCPA violations.

According to findings by the Federal Communications Commission (FCC), the

agency Congress vested with authority to issue regulations implementing the TCPA, such calls are prohibited because, as Congress found, automated or prerecorded telephone calls are a greater nuisance and invasion of privacy than live solicitation calls, and such calls can be costly and inconvenient. 47 U.S.C. § 402 (Hobbs Act)

The FCC has also ruled that a company can be held vicariously liable for text messages placed by a “third party” and are equally liable just as if the “third party” placed the call themselves. See...<http://www.fcc.gov/document/dish-network-et-al-petition-declaratory-ruling-re-tcpa-rules> Other Circuits have also ruled and held that the defendant marketing consultant could be liable under the Telephone Consumer Protection Act (TCPA) for unsolicited text messages that it arranged for a separate third-party to send on behalf of a client, the U.S. Navy. See... *Gomez v. Campbell-Ewald Co.*, 768 F.3d 871, 874, 882 (9th Cir. 2014). The TCPA’s consent requirement applies to short message service text messages (“SMS” or “text message”) in addition to voice calls. 2003 TCPA Order, 18 FCC Rcd at 14115, para. 165; see also *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 954 (9th Cir. 2009)

The TCPA is a strict liability statute that awards \$500 per each violation. 47 U.S.C. § 227(b)(3)(B)(C). Additionally, O.G.C.G.A 46-5-27(i) provides for statutory damages of \$2000.00 for each of the calls made per violation.

As explained below, summary judgment should be granted in favor of Plaintiff

IV. STATEMENT OF UNDISPUTED FACTS

Plaintiff never consented to, requested, or otherwise desired or permitted, calls from Defendant Upland Software, Inc., for a loan or any other purpose.

(Declaration Ricky R. Franklin ¶ 4, Exhibit B, Appendix A, ¶ 1, SUMF 1)

On 08 Aug 2017, @ 1536 the Plaintiff was sent the following message:

Notice Benita Your loan of \$5,000 is ready! Tap Here: <https://goo.gl/PJMbes> Bad Credit & Multiple Submits OK! Reply STOP cancel msg& data rates may apply.

The Defendant USI continued text messaging the Plaintiff 25 times with similar messages up until March 2018. (Appendix A, ¶ 1, SUMF 2) (Franklin Declaration #5) (Exhibit F)

The Plaintiff is an unmarried man, who has never met, talked to, or otherwise had any communications with a person listed in the counter-claim by the name of "Benita Ross". (Appendix A, page 4, SUMF 2) (Franklin Declaration #5)

The text messages are an invasion of privacy, and harassment to Plaintiff. Plaintiff suffered harm and damages in the form of emotional distress such as anger, and resentment each time he received a call from Defendant USI. (App A, ¶ 4- SUMF 9) (Dec ¶ 8)

On Defendant USI own website, they admit that its mobile marketing A2P is an automated system used to send text messages. (SUMF ¶ 6, Exhibit D)

V. ARGUMENT

A. Legal Standard

Summary judgment is appropriate where “there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law” Fed. R. Civ. P. 56(a). The party seeking summary judgment bears “the initial burden to show the district court, by reference to materials on file, that there are no genuine issues of material fact that should be decided at trial” *Scott v. Harris*, 550 U.S. 372, 380 (2007); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

Once the moving party has satisfied its responsibility, the burden shifts to the nonmovant to show the existence of a genuine issue of material fact. *Id.* If the nonmoving party fails to make a sufficient showing on an essential element of its case with respect to which they have the burden of proof, the moving party is entitled to summary judgment *Id.*

Only disputes involving material facts are relevant. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). “The mere existence of some factual dispute will not defeat summary judgment unless that factual dispute is material to an issue affecting the outcome of the case. see... *James v. State Farm Mut. Auto. Ins. Co.* 743 F.3d 65, 68 (5th Cir. 2014).

In order to demonstrate a genuine issue of material fact, the non-moving party “must do more than simply show that there is some metaphysical doubt as to the material facts...Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no “genuine issue for trial”

Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986).

Moreover, if a party fails to plead sufficient facts to establish an element of its claim, no genuine issue material fact exists. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) If the nonmoving party is unable to provide evidence substantial enough for a factfinder to rely upon at trial which shows that a genuine issue exists as to a material fact, the motion must be granted. Fed. R. Civ. P. 56(e); *Anderson*, 477 U.S. at 249-250.

B. Plaintiff Never Provide Consent To Be Contacted On His Cellphone

Plaintiff never consented to, requested, or otherwise desired or permitted, calls from Defendant Upland Software, Inc., for a loan or any other purpose.

(Declaration Ricky R. Franklin ¶ 4, Exhibit B, Appendix A, ¶ 1, SUMF 1) The FCC and the 11th Circuit has ruled that consent can only come from the person that owns the phone. *Id* at 10 See also...*Osorio v. State Farm Bank, FSB*; 746 F.3d 1242 (11th Cir. 2014) A Company should only get consent from that person.

The FCC has consistently ruled for the last 15 years, that consent is “deemed only if given by the consumer to the business during the transaction that resulted in a debt being owed. *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 23 FCC Rcd 9779, para 10 (2008) Further, that if a matter of consent is at issue, the Defendant bears the burden of proof of proving prior express written consent. *Id*.

The Defendant cannot show that it got consent from the Plaintiff by any means. Therefore summary judgment should be granted in the Plaintiffs favor.

C. Defendant USI’s System Is Totally Automated

Congress directed the Federal Communications Commission (“FCC”) to “prescribe regulations to implement the requirements of” the TCPA including by rule or order. 47 U.S.C. §227(b)(2). In accordance, the FCC has issued a series of rules and regulations implementing the TCPA. *See, e.g.*, 7 FCC Rcd. 8752 (1992); 18 FCC Rcd. 14014 (2003); 23 FCC Rcd. 559 (2008); 27 FCC Rcd. 1830 (2012); 27 FCC Rcd 15391 (2012); 29 FCC Rcd. 3432 (2014); 30 FCC Rcd. In its 2015

Declaratory Ruling and Order, *inter alia*, the FCC reaffirmed “previous statements that dialing equipment generally has the capacity to store or produce, and dial random or sequential numbers (and thus meets the TCPA’s definition of “autodialer”) even if it is not presently used for that purpose, including when the caller is calling a set list of consumers.” 30 FCC Rcd. at 7971-72. The FCC also reiterated that predictive dialers satisfy the TCPA’s definition of autodialer. *Id.* at 7972. In addition, the FCC found “callers cannot avoid obtaining consent by dividing ownership of pieces of dialing equipment that work in concert among multiple entities.” *Id.*

i. The Hobbs Act

Under the Hobbs Act, 28 U.S.C. § 2342 *et seq.*, federal courts lack jurisdiction over challenges to FCC orders and regulations ‘other than on appeals arising from agency proceedings. The Hobbs Act provides the federal courts of appeals with ‘exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity ‘of FCC orders. 28 U.S.C. § 2342(1). Thus absent a direct appeal to review the 2015 FCC Order’s interpretation of an autodialer, we are bound to follow it.”); *Mais*, 768 F.3d at 1119 (“district court exceeded its jurisdiction by declaring the 2008 FCC Ruling to be inconsistent with the TCPA”); *Ranwick v. Texas Gila, LLC*, 37 F.Supp.3d 1053, 1057

ii. The Defendants System Qualifies As An automated System.

The TCPA broadly prohibits calls made using “any automatic telephone dialing system” to “any telephone number assigned to a . . . cellular telephone service” without limiting that restriction to telemarketing calls. Citing...*Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278, Declaratory Ruling and Order, para 123, FCC Rcd (2015)*

The Defendants website boasts proudly about its automated messaging system and how they can send thousands if not millions of messages from its automated messaging campaigns. (Exhibit D, page #3) Furthermore, on June 18, 2015, the FCC issued a Press Release stating that “[e]quipment used to send Internet-to-phone text messages is an autodialer,” which is sufficient by itself to find that the Defendant’s equipment is an ATDS. See...<https://www.fcc.gov/document/fcc-strengthens-consumer-protections-against-unwanted-calls-and-texts>.

The fact that Defendant may seek to claim it is not responsible for the sending of text messages, the FCC has been clear that individual pieces of equipment and software separately owned does not change this analysis of auto-dialing equipment. Parties cannot circumvent the TCPA by dividing ownership of dialing equipment. See...*Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278, Declaratory Ruling and Order, FCC Rcd 7971,*

7972, para 23, 11 (2015) . We also find that callers cannot avoid obtaining consent by dividing ownership of pieces of dialing equipment that work in concert among multiple entities. *Id at 10*

The Defendants system qualifies as an automated system and is therefore subject to violations of the TCPA and therefore Plaintiffs motion for Summary Judgment should be granted.

VI. CONCLUSION

Plaintiff has overwhelmingly and conclusively established that: (1) At any time a system has the capacity to act as an auto-dialer, it is covered by the TCPA; (2) Defendants system qualifies and an auto-dialer; (3) Valid written consent was never obtained from Plaintiff; (4) Plaintiff is entitled to summary judgment as a matter of law. The Defendant has violated the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 et seq and O.GC.G.A 46-5-27(i) texting the Plaintiff on his cellphone. At a minimum, the Plaintiff is entitled to

For the reasons stated above, Plaintiffs Motion for Summary Judgment should be granted and awarded \$500.00 for each of the 25 calls/text for the TCPA, and \$2,000.00 per text for violations of O.GC.G.A 46-5-27(i).

Respectfully submitted, June 2nd 2018

Ricky R. Franklin



708 Brambling Way
Stockbridge, GA 30281
(678-650-3733)
rrfrank12@hotmail.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was sent via mail on June 2nd 2018 to Defendant's Counsel listed below:

CLEVELAND TERRAZAS PLLC

Matthew Murrell

Carlos Soltero

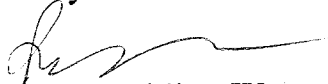
4611 Bee Cave Road, Suite 306B

Austin, Texas 78746

T: (512) 689-8698

ATTORNEYS FOR DEFENDANT UPLAND SOFTWARE, INC.

Ricky R. Franklin



708 Brambling Way

Stockbridge, GA 30281

(678-650-3733)

rrfrank12@hotmail.com

CASE NO: 1-18-CV-236-LY

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

RICKY R. FRANKLIN
Plaintiff

v.

UPLAND SOFTWARE, INC.,
Defendant

(DISTRICT JUDGE) THE HONORABLE LEE YEAKEL

**SHORT APPENDIX OF PLAINTIFF
RICKY R. FRANKLIN**

June 2nd, 2018

Ricky R. Franklin



708 Brambling Way
Stockbridge, GA 30281
rrfrank12@hotmail.com

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I	A	06/02/2018	Undisputed Facts
I	B	06/02/2018	Declaration Franklin
I	C	06/01/2018	Short Code Owner
I	D	06/02/2018	Automated System Used By Defendant
I	E	06/02/2018	Documented Automated Messages
I	F	06/02/2018	Proof of ownership of phone

EXHIBIT A

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

RICKY R. FRANKLIN)	Civil Action No: 1:18-CV-236-LY
)	
Plaintiff,)	
)	
v.)	
)	
UPLAND SOFTWARE, INC.,)	
)	
Defendant)	

**PLAINTIFF'S FED. R. CIV. P. 56 AND LOCAL RULE 56 ET SEQ
STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF
HIS MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Pro Se, by and thru himself, and pursuant to Fed. R. Civ. P. 56 and Local Rules 56 et seq, respectfully submits the following statement of material facts as to which there is no genuine issue and that entitle Plaintiff to a judgment as a matter of law:

1. Plaintiff never consented to, requested, or otherwise desired or permitted, calls/texts from Defendant Upland Software, Inc., for a loan or any other purpose.

Declaration Ricky R. Franklin ¶ 4 (Exhibit B).

2. On 08 Aug 2017, @ 1536 the Plaintiff was sent the following message:

Notice Benita Your loan of \$5,000 is ready! Tap Here: <https://goo.gl/PJMbes> Bad Credit & Multiple Submits OK! Reply STOP cancel msg& data rates may apply

The Defendant USI continued text messaging the Plaintiff 25 times with similar messages up until March 2018. (Franklin Declaration ¶ 5, Exhibit B, Exhibit F)

3. The Plaintiff is an unmarried man, who has never met, talked to, or otherwise had any communications with a person listed in the counter-claim by the name of "Benita Ross". (Franklin Decl ¶ 6)

4. The text messages are an invasion of privacy, and harassment to Plaintiff. Plaintiff suffered harm and damages in the form of emotional distress such as anger, and resentment each time he received a call from Defendant USI.

Dec Franklin ¶ 7

5. Plaintiff suffered actual damages by receiving these unwanted text messages which caused his phone tied up and not able to be used for other purposes. Franklin Dec ¶ 8

6. Defendant USI admits that its mobile marketing A2P is an automated system used to send text messages. (SUMF ¶ 6, Exhibit D)

Date: June 2nd, 2018

Respectfully submitted



Ricky R. Franklin
708 Brambling Way
Stockbridge, GA 30281
678-650-3733
rrfrank12@hotmail.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was sent via mail on June 2nd 2018 to Defendant's Counsel listed below:

CLEVELAND TERRAZAS PLLC

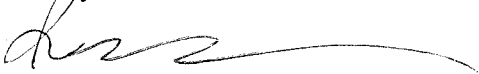
Matthew Murrell

Carlos Soltero

4611 Bee Cave Road, Suite 306B
Austin, Texas 78746
T: (512) 689-8698

ATTORNEYS FOR DEFENDANT UPLAND SOFTWARE, INC.

Ricky R. Franklin


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(678-650-3733)

rrfrank12@hotmail.com

EXHIBIT B

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

RICKY R. FRANKLIN)	Civil Action No: 1:18-CV-236-LY
)	
Plaintiff,)	
)	
v.)	
)	
UPLAND SOFTWARE, INC.,)	
)	
Defendant)	

**DECLARATION OF RICKY R. FRANKLIN IN SUPPORT OF HIS
MOTION FOR SUMMARY JUDGMENT**

I declare under penalty of perjury pursuant to 28 U.S.C. section 1746 as follows:

1. I am over 18 years of age and competent to make this declaration.
2. I am the Plaintiff in the above-styled case.
3. Plaintiff is the sole owner and user of phone number 678-235-1290, where
the text messages took place on the Plaintiffs cellphone.
4. All of the messages used in Exhibit E are from the Plaintiffs personal
cellphone capture by picture.
5. Plaintiff never consented to, requested, or otherwise desired or permitted,
calls from Defendant Upland Software, Inc., for a loan or any other purpose.

6. On 08 Aug 2017, @ 1536 the Plaintiff was sent the following message:

Notice Benita Your loan of \$5,000 is ready! Tap Here:
<https://goo.gl/PJMbcs> Bad Credit & Multiple Submits OK! Reply STOP
cancel msg& data rates may apply

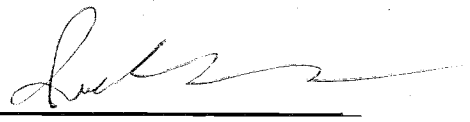
The Defendant USI continued text messaging the Plaintiff 25 times with similar messages up until March 2018. (Exhibit A ¶ 2, Exhibit F)

7. The Plaintiff is an unmarried man, who has never met, talked to, or otherwise had any communications with a person listed in the counter-claim by the name of "Benita Ross". (Exhibit A, SUMF ¶ 3)

8. Plaintiff suffered actual damages in the form of embarrassment, humiliation and anger as a result of the calls. SUMF ¶ 5

9. The calls were an invasion of privacy, and harassment to Plaintiff. Plaintiff suffered harm and damages in the form of emotional distress such as anger, and resentment each time he received a text message from Defendant Upland Software, Inc. SUMF ¶ 4

I declare under penalty of perjury that the foregoing is true and correct.

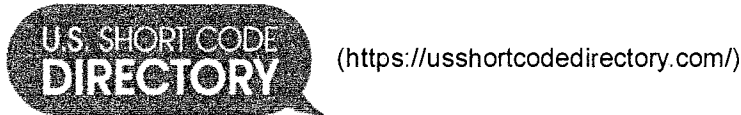
By: 

Ricky R. Franklin

Date: June 2nd, 2018

EXHIBIT C

by **tarango** (http://www.tarango.com/v/utm_campaign=Short%20Code%20Directory&utm_content=header&utm_medium=referral&utm_source=usshortcodedirectory.com)
 U.S. SHORT CODE DIRECTORY (<https://usshortcodedirectory.com/>)
 __hstc=216944585.52aee9fa8fd0.1523127631988.1526581712770.1527882762702.3&__hssc=216944585.2.1527882762702&__hsfp=3927466003)



Upland Software SMS Short Code

upland

62701 Short Code

Do you own this number?

Mobile & Web Services (<https://usshortcodedirectory.com/sms-short-code-industry/mobile-web-services/>)

[Write Review](#)

[Report Spam \(http://www.spamresponse.com](http://www.spamresponse.com)

[/report-spam\)](#)

Last Updated: November 20, 2017

Short Code Owner Information

Business/Organization:	Upland Software
Address:	401 Congress Ave #1850
City:	Austin
State:	TX
Zip Code:	78701
Website:	https://uplandsoftware.com (https://uplandsoftware.com)
Email Address:	help@uplandsoftware.com
Phone Number:	1-833-875-2631

Basic Short Code Information

Short Code Number: 62701
 (https://usshortcodedirectory.com/)

Short Code Length: 5-Digit Short Code (https://usshortcodedirectory.com/sms-short-code-types/5-digit-short-code/)

Short Code Activation Date: 04/03/2013

Short Code Deactivation Date: N/A

Short Code Type: Dedicated Short Code (https://usshortcodedirectory.com/sms-short-code-types/dedicated-short-code/)

Vanity Short Code Style: Non-Vanity Short Code (https://usshortcodedirectory.com/sms-short-code-types/non-vanity-short-code/)

Vanity Short Code Spelling: N/A

Messaging Types: SMS

Supported Wireless Carriers:

- Cincinnati Bell
- Leap Wireless
- United States Cellular Corp
- Verizon
- T-Mobile
- Alltel-Allied
- AT&T
- Cellular South
- iWireless
- Metro PCS
- Virgin Mobile
- Boost Mobile
- Union Telephone
- nTelos
- TracFone (AT&T)
- West Central Wireless
- Bluegrass Cellular
- Carolina West Wireless
- Rural Independent Network Alliance
- East Kentucky Network
- Illinois Valley Cellular
- Inland Cellular
- Nex Tech Communications
- Pine Cellular
- DTC Wireless
- Boost-CDMA
- CellCom
- Immix
- ECIT
- Alaska Communications Systems (ACS)
- United Wireless
- GCI Communications
- Thumb Cellular
- Cross Wireless
- Chat Mobility
- Northwest Missouri Cellular
- Pioneer Cellular
- Panhandle Wireless
- Element Mobile
- Golden State Cellular
- Viaero Wireless
- Plateau Wireless
- MTPCS
- Cellular One
- Cleartalk (Flat Wireless)
- Epic Touch
- Mosaic Telecom
- Mobi
- PCS
- Peoples Wireless
- Duet IP
- Chariton Valley Cellular
- SouthernLINC
- MobileNation/SI Wireless
- MTA Wireless/Matanuska
- Kenai SRT Communications
- MetroPCS/T-Mobile
- US Aio Wireless
- Sagebrush Cellular
- Google Voice

Short Code Campaign Information

Campaign Name: Not Provided
Campaign Type: Subscription
Campaign URL: Not Provided
Campaign Status: Active
Campaign Terms & Conditions: Not Provided
Campaign Support Phone Number: Not Provided
Campaign Support Email Address: Not Provided
Campaign Description:

62701 is a common short code (CSC), currently being used by Upland Software.

The dedicated short code 62701, is registered in the United States with the CSCA, and is being used by Upland Software. The number is a non-vanity short code.

Text "HELP" to 62701 for more information about this short code. Did you receive an SMS message from 62701, and you wish to stop receiving messages from Upland Software? You can unsubscribe from Upland Software SMS messages by texting "STOP" to 62701.

Campaign Content:

Not provided

Campaign Language: English
Campaign Opt-in Keyword: Not Provided
Opt-in Type: Not Provided
Campaign Launch Date: Not Provided

1 Comment



Anonymous on November 30, 2017 at 11:51 pm

Stop

Reply (<https://usshortcodedirectory.com/directory/short-code-62701/?replytocom=1757#respond>)

Leave a Comment About This Short Code

Enter your comment here...

EXHIBIT D



upland Mobile Messaging

Enterprise Mobile Messaging and SMS

The Platform Behind Today's Most Effective Mobile Campaigns

Upland Mobile Messaging provides communications teams, marketers, and program managers an enterprise mobile messaging platform for planning, executing, managing and analyzing complex mobile messaging campaigns.

Why Mobile Messaging

iHeart

RelayRadio

Shutterstock



Shutterstock

Enterprise Mobile Messaging that

Drives Results



Enterprise-Grade Platform

Send and receive text, pictures, and video on an easy-to-use platform that integrates seamlessly with your existing marketing ecosystem.



Deep Mobile Expertise

Leverage our team of mobile strategists that have launched the industry's largest and most effective mobile messaging campaigns.



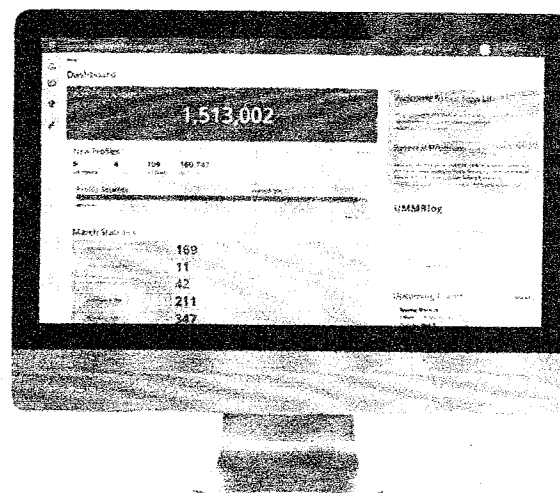
Automated Personalization

Harness our extensive data and insights to automate personalized messages and drive deep engagement with consumers.

Request a Demo

Personalized Messaging Campaigns at Your Fingertips

Build your database and inspire your audience to take action with Upland Mobile Messaging automated messaging campaigns.



Take a Tour

D

Enterprise Mobile Messaging Resources

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EBOOK

The 90-Day Journey: A step-by-step guide to successful text messaging campaigns

Your 90-day blueprint to launch effective and successful SMS text messaging campaigns

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WEBINAR

Mobile Marketing 101

Learn how text messages can reach and engage consumers.

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4/

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CASE STUDY

Greenpeace

Mobile subscribers were 60% more likely to become monthly sustainers.

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CASE STUDY

The Nature Conservancy

The Nature Conservancy grew its SMS list 800% with one simple tactic.

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WEBINAR

Forrester: The Growing Gap in Your Marketing Communications Mix

Any type of organization can benefit from mobile outreach.

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BLOG

Add Mobile Fields to Your Web Forms for Fast List Growth

The Nature Conservancy's forms include a mobile field, contributing to mobile growth.

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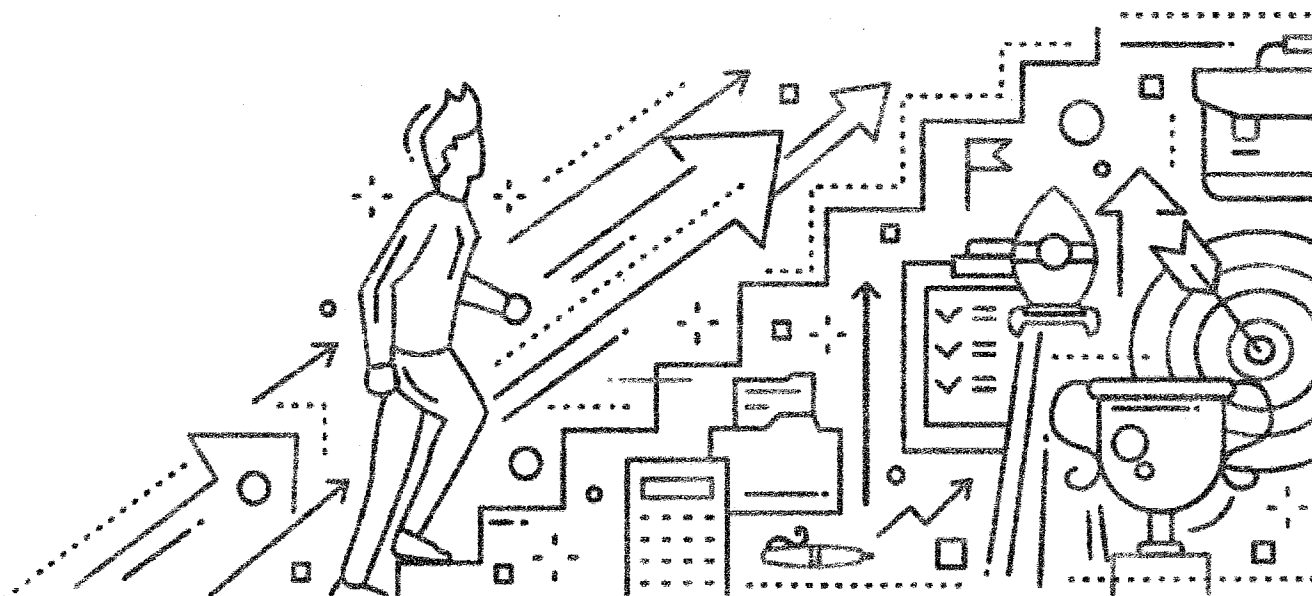
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Maximize Your Software Investment with Upland Mobile Messaging Premier Success Plans

Upland Mobile Messaging Premier Success Plans eliminate the need for costly custom services and build a solid foundation for your success. Platinum is our top-tier plan, and it provides your business with the highest level of experience and value.

Premier Success Plans



Mobile Messaging

Upland Software

EXHIBIT E

E

TEXT MESSAGES RECEIVED FROM UPLAND AT 678-235-XXXX

08 Aug 2017, @ 1536, Notice Benita Your loan of \$5,000 is ready! Tap Here:
<https://goo.gl/PJMbes> Bad Credit & Multiple Submits OK! Reply STOP cancel msg&
data rates may apply.

09 Sep 2017, @ 1507 Notice Your New loan of \$5,000 is ready! Tap Here:
<https://goo.gl/ctWzhX> Bad Credit & Multiple Submits OK! Reply STOP cancel msg&
data rates may apply.

05 Oct 2017, @ 1049 Your New loan of \$5,000 is ready! Tap Here:
<https://lends.live/bettec2e4> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

17 Oct 2017, @ 1451 Notice Your New loan of \$5,000 is ready! Tap Here:
<https://lends.live/bette1016> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

10 Oct 2017, @ 1027 Your New loan of \$5,000 is ready! Tap Here:
<https://lends.live/brigh1026> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

11 Nov 2017, @ 2030 Your New loan of \$5,000 is ready! Tap Here:
<https://lends.live/1104sdf> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

08 Nov 2017, @ 1538 Get up to \$5,000 NOW! Tap Here: <https://lends.live/brigh1108>
Bad Credit & Multiple Submits OK! Reply STOP cancel msg& data rates may apply.

20 Nov 2017, @ 0950 Your New loan of \$5,000 is ready NOW! Tap Here:
<https://lends.live/bette1911> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

27 Nov 2017, @ 1502 Extra \$5,000 cyber Monday only. Get cash for the holidays at
<https://lends.live/bet27> Reply STOP cancel msg& data rates may apply.

05 Dec 2017, @ 0640 New loan of \$5,000 is ready NOW! Tap Here:
<https://lends.live/clR123> use these personal loans for the holiday! Reply STOP
cancel msg& data rates may apply.

12 Dec 2017, @ 1435 New holiday Loan of \$5,000 is ready NOW! Tap Here:
<https://lends.live/w16212> use these personal loans for all your needs! Reply STOP
cancel msg& data rates may apply.

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22 Dec 2017, @ 0002 New holiday Loan of \$5,000 is ready! Tap Here:
<https://lends.live/wh1221> use these personal loans for all your needs! Reply STOP
cancel msg& data rates may apply.

30 Dec 2017, @ 1853 Your \$5,000 is ready! Tap Here <https://lends.live/cl1230> and
start the New Year with extra funds today! Reply STOP cancel msg& data rates
may apply.09

08 Jan 2018, @ 1137 Your 2018 Loan of \$5,000 is now ready! Tap Here:
<https://goo.gl/iWe7UQ> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

09 Jan 2018, @ 0939 Your 2018 Loan of \$5,000 is now ready! Tap Here:
<https://lends.live/clr0109> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

13 Jan 2018, @ 1306 2018 Loans are now ready! Get up to \$5,000 today!
<https://lends.live/wh112> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

18 Jan 2018, @ 1730 A new loan of up to \$5,000 is now ready! Tap Here:
<https://lends.live/cl118> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

27 Jan 2018, @ 1359 Get cash for bills, vacations or any need! Click
<https://lends.live/JC125> to request funds. Lender approvals in 15min Reply STOP
cancel msg& data rates may apply.

02 Feb 2018, @ 1647 Get cash for bills, vacations or any need! Click
<https://lends.live/DR427> to request funds. Lender approvals in 15min Reply STOP
cancel msg& data rates may apply.

07 Feb 2018, @ 0141 A new loan is now READY in just a few min! Tap Here:
<https://lends.live/bR021> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

08 Feb 2018, @ 1149 benita, a new loan is now READY! Tap Here:
<https://lends.live/gR28> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

12 Feb 2018, @ 1134 A BRIGHTER LOAN! Need cash? new loan is ready:
<https://lends.live/BF212> Bad Credit & Multiple Submits OK! Reply STOP cancel
msg& data rates may apply.

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16 Feb2018, @ 1325 A new loan is READY HERE: <https://lends.live/w214> Bad Credit & Multiple Submits OK! Reply STOP cancel msg& data rates may apply.

23 Feb2018, @ 1318 Bad credit loan is now READY! Just tap Here: :
<https://lends.live/Gr223> Bad Credit & Multiple Submits OK! Reply STOP cancel msg& data rates may apply.

03 Mar 2018, @ 1549 benita! A Better Loan now available Here:
<https://lends.live/bT32> Bad Credit & Multiple Submits OK! Reply STOP cancel msg& data rates may apply.

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EXHIBIT F

BRING YOUR OWN PHONE!!!
See Associate for details!!!

RECEIPT VOID WITHOUT
QPAY ID

Location: I COMMUNICATIONS 71013641
2041 Mount Zion Road
Morrow, GA - 30260
770-210-5522
Merchant ID: 71013641
Operator ID: 71013641

MetroPCS Receipt
MetroPCS Conf Code: 290432700
Customer Name: RICKY FRANKLIN
Phone: 678-235-1290
Account: 341733014
Past Due Balance: \$40.00
Current Balance: \$40.00
Due Date: 24th of each month

Date: 11/25/2014 6:33:54 PM EST
Qpay ID: QPAYWP520473009
Activation Payment: \$40.00
Convenience Fee: \$0.00
Total Amount: \$40.00

Thank you RICKY FRANKLIN
Your due date is the 24th of each month
See www.metroPCS.com/terms for Terms
and Conditions of Service

ITC Financial Licenses, Inc.
1200 Brookstone Centre Parkway
Suite 220
Columbus, GA - 31904
800-698-2435

Thank you for choosing Qpay!

Thank you for choosing
I Communications
and MetroPCS!

WORLDWIDE COMMUNICATION
2041 MOUNT ZION RD
MORROW, GA. 30260

TERMINAL I.D.: 0075420000018194574001
MERCHANT #: 8018194574

VISA
*****5598
SALE
RECORD #: 14
DATE: NOV 25, 14
BATCH: 519

INV: 000015
TIME: 19:20
AUTH: 311159

TOTAL \$79.43
CARD BALANCE: \$0.00

RICKY FRANKLIN
I AGREE TO PAY ABOVE TOTAL AMOUNT
ACCORDING TO CARD ISSUER AGREEMENT
(MERCHANT AGREEMENT IF CREDIT VOUCHER)
CUSTOMER COPY

Transaction

Zionwireless
2041 Mt Zion Rd
Morrow, GA 30260
770)210-5522

Transaction # TR-86684
Date 11/25/2014 6:28:24 P
Cashier yun
Register# 2

Item	Description
6102146376 28	Metro Samsung GALAXY Light Serial Number 1 354796060726630 1 @ \$149.00
Discount Phone	Discount Phone 1 @ (\$120.00)
\$40Metro Plan	\$40Metro Plan 1 @ \$40.00

Subtotal
Tax
Total
Amount Due
Credit Card
Change

You Saved \$ 120.00

PRI
POST

P



U.S. POSTAGE
\$9.85
PM 2-DAY
30304 0004
Date of sale
06/02/18
06 2500
SSK
A088806030005740
08310289

PRIORITY MAIL 2-DAY®

EXPECTED DELIVERY 06/06/2018

1lb. 160 oz.

SHIP TO:

0004

501 W 5TH ST STE 1100
AUSTIN TX 78701-3812

USPS TRACKING NUMBER



9505 5000 1514 8153 0002 15

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